

1 BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS

2 STATE OF IDAHO

3  
4 In re the Psychologist's License )  
of DAVID HILDEBRANDT, License ) Case No. BOL 83-202  
5 License No. PSY-97, )  
Respondent. ) HEARING OFFICER'S  
6 ) FINDINGS OF FACT,  
7 ) CONCLUSIONS OF LAW  
AND PROPOSED ORDER  
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9 Pursuant to an agreement of the parties, this matter is  
10 submitted for decision based upon Affidavits and letters filed  
11 by Respondent. As a result, no evidentiary hearing was con-  
12 ducted. The Board of Psychologist Examiners, hereinafter  
13 referred to as the Board, submitted argument through its attor-  
14 ney, Fred C. Goodenough, Deputy Attorney General, and David  
15 Hildebrandt, hereinafter referred to as Respondent, submitted  
16 evidence and arguments through his attorney, B. Lynn Winmill.

17 A Brief was submitted by Respondent on November 28, 1983,  
18 and on December 22, 1983, the Board's Brief was received.  
19 When no Reply Brief was received from Respondent, the record  
20 was closed.

21 FINDINGS OF FACT

22 I

23 Based upon a Complaint dated January 31, 1983, disciplin-  
24 ary action was instituted before the Board of Psychologist  
25 Examiners against Respondent, pursuant to Idaho Code Sec.  
26 54-2309(e), on the grounds that Respondent had engaged in  
27 unethical practices by engaging in sexual intercourse with a  
28 client, Carolyn Wharton.

II

Respondent is his Answer to the Complaint dated September 19, 1983, in his Affidavit and in his Brief, both dated November 21, 1983, admitted the following facts:

1. Respondent is the holder of Idaho psychologist license No. PSY-97.

2. Respondent treated Carolyn Wharton from May 22, 1979, to September 5, 1979, on weekly and then bi-monthly schedules, for "seizures" and other stress-related problems.

3. Respondent became personally and emotionally involved with Ms. Wharton in August, 1979, and this involvement included sexual intercourse beginning approximately ten days prior to her last session with Respondent on September 5, 1979.

4. Respondent's personal and sexual relationship with Ms. Wharton continued until approximately April 1, 1980.

5. Respondent also saw Ms. Wharton in his office on May 5, 1980, and for six additional appointments in September, October and November, 1981, for similar problems.

6. In an effort to explain his actions, Respondent states that he was under a great deal of stress himself, including the breakup of a group medical practice which resulted in a substantial financial loss, and was also experiencing a mid-life crisis. Respondent also states that he has never been involved in other similar problems.

7. Respondent's practice is currently being supervised by Dr. Shanna J. McGee, and Respondent has resigned from the

1 American Psychological Association for a period of three  
2 years.

3 III

4 Respondent also alleges that Ms. Wharton was a willing  
5 participant and Respondent filed an Affidavit of Lynn Sweet  
6 which indicates that, after one or two sessions, Ms. Wharton  
7 stated that she planned to have an affair with Respondent.

8 IV

9 In addition to evidence related to the allegations of the  
10 Complaint, Respondent submitted letters from Shanna McGee,  
11 Ph.D., the psychologist supervising Respondent's practice;  
12 Michael S. Baker, M.D., a partner in Respondent's clinic; and  
13 Deborah Dvorak, a client, regarding his professional reputa-  
14 tion. This evidence indicates that Respondent is a qualified  
15 and well respected practitioner and prior to the present Com-  
16 plaint, apparently had no other disciplinary or ethical prob-  
17 lems.

18 CONCLUSIONS OF LAW

19 V

20 Pursuant to Idaho Code Sec. 54-2309(e), the Board of  
21 Psychologist Examiners may revoke a psychologist's license if  
22 a licensee is "found guilty by the board of the unethical prac-  
23 tice of psychology as detailed by the current, and future  
24 amended, ethical standards of the American Psychological Asso-  
25 ciation." In addition, pursuant to Idaho Code Sec.  
26 54-2305(c), the Board of Psychologist Examiners also has the  
27 authority to revoke or suspend the license of a psychologist  
28 and to conduct hearings in connection therewith.

VI

Respondent has admitted the following conclusions of law:

1. Respondent's license is subject to the provisions of Chapter 23, Title 54, Idaho Code; the administrative rules promulgated thereunder by the Board of Psychologist Examiners; and the Rules of Practice and Procedure promulgated by the Bureau of Occupational Licenses, State of Idaho.

2. Sexual intimacies with clients are unethical under Principle 6a of the Ethical Standards of Psychologists, (1979 ed.), copies of which standards are attached to the original Complaint.

3. Pursuant to Idaho Code Sec. 54-2309(e), a licensed psychologist found to have engaged in unethical practices by the Board may have that license revoked, suspended or otherwise acted upon.

VII

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer concludes that Respondent engaged in unethical practices by engaging in sexual intimacies with a client.

VIII

Severe disciplinary action, including license revocation, has been upheld against licensed professionals who have been charged with engaging in sexual activities, or taking sexual liberties, with clients. Cardamon v. State Board of Optometric Examiners, 441 P.2d 25 (Colo. 1968); Nevada State Board of Chiropractic Examiners v. Babtkis, 432 P.2d 498

1 (1967); Bernstein v. Board of Medical Examiners, 22  
2 Cal.Rptr. 419 (1962).

3  
4 PROPOSED ORDER

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6 Based upon the foregoing, the Hearing Officer proposes  
7 that Respondent's psychologist license be suspended for a  
8 fixed period of time to be set by the Board, in its discre-  
9 tion.

10 DATED This 24th day of January, 1984.

11  
12 Jean R Uranga  
13 JEAN R. URANGA  
14 Hearing Officer

15 CERTIFICATE OF MAILING

16 Pursuant to IDAPA 24.20.A.4.S, the Rules of Procedure of  
17 the Bureau of Occupational Licenses, I hereby certify that on  
18 this 24th day of January, 1984, I served true and correct  
19 copies of the foregoing HEARING OFFICER'S FINDINGS OF FACT,  
20 CONCLUSIONS OF LAW AND PROPOSED ORDER by depositing copies  
21 thereof in the United States mail, postage prepaid, in enve-  
22 lopes addressed to:

23 Chuck Goodenough  
24 Deputy Attorney General  
25 Statehouse  
26 Boise, Idaho 83720

27 B. Lynn Winmill  
28 Attorney at Law  
P.O. Box 4167  
Pocatello, Idaho 83205

29 Jean R Uranga  
30 JEAN R. URANGA